

Amendment and Response
Applicant: Thomas C. Anthony
Serial No.: 10/679,564
Filed: October 6, 2003
Docket No.: 10014232-1 (H303.147.101)
Title: MAGNETIC MEMORY

REMARKS

This Response is in reply to the Non-Final Office Action mailed September 16, 2004. Claims 1-23 were rejected. With this Response, no claims have been amended. Claims 1-23 remain pending in the application and are presented for reconsideration and allowance.

Claim Rejections under 35 U.S.C. § 102

In the Office Action, claims 1-4 and 6-22 were rejected under 35 U.S.C. § 102(e) as being anticipated by Nejad et al. U.S. Patent No. 6,716,644. Nejad has a filing date of May 17, 2002, which is prior to the October 6, 2003 filing date of the present invention and is said to constitute prior art under 35 U.S.C. § 102(e).

However, the Nejad reference can be removed as prior art by an appropriate showing under 37 C.F.R. § 1.131. Since Nejad is defined as prior art under 35 U.S.C. § 102(e), it can be removed as prior art if the Applicant proves a date of invention predating the Nejad filing date of May 17, 2002. As such, Applicant is filing herewith a Declaration under 37 C.F.R. § 1.131 to swear behind the filing date of May 17, 2002 to remove the Nejad reference as prior art.

With removal of the Nejad reference in light of the Declaration under 37 C.F.R. § 1.131, the rejection of independent claims 1, 12, 18, and 21 under 35 U.S.C. § 102 based on Nejad is believed by the Applicant to no longer apply. Thus, Applicant respectfully requests reconsideration and withdrawal of the rejection and allowance of independent claims 1, 12, 18, and 21.

Dependent claims 2-4, 6-11, 13-17, 19, 20, and 22 depend directly or indirectly from independent claims 1, 12, 18, and 21. As discussed above, it is believed that independent claims 1, 12, 18, and 21 are now in condition for allowance. Accordingly, Applicant believes these dependent claims in combination with the corresponding independent claims to be allowable as well.

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Claim Rejections under 35 U.S.C. § 103

In the Office Action, claims 5 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nejad et al. in view of a further remark. However, each of the rejections under 35 U.S.C. § 103(a) are based on the rejection of independent claims 1 and 21 under 35 U.S.C. § 102. As discussed above, Applicant believes that the rejections under 35 U.S.C. § 102 no longer apply. Claims 5 and 23 depend directly or indirectly upon corresponding independent claims 1 and 21. In light of the above, it is respectfully submitted that the above rejections of claims 5 and 23 under 35 U.S.C. § 103(a) also be withdrawn.

Allowable Subject Matter

In light of the above, Applicant believes independent claims 1, 12, 18, and 21 and the claims depending therefrom, are in condition for allowance. Allowance of these claims is respectfully requested.

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CONCLUSION

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to either Howard Boyle at Telephone No. (281) 518-9645, Facsimile No. (281) 514-8332 or Steven E. Dicke at Telephone No. (612) 573-2002, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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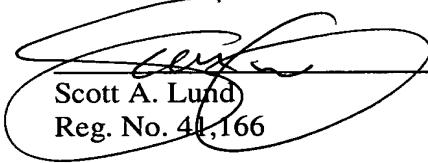
Respectfully submitted,

Thomas C. Anthony,

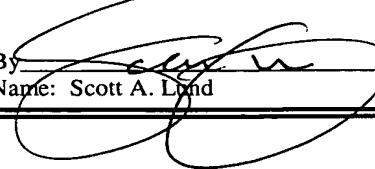
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CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16th day of December, 2004.


By Scott A. Lund
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